

Effective 3/18/2016

32B-8a-302 Application -- Approval process.

- (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall file a transfer application with the department that includes:
 - (a) an application in the form provided by the department;
 - (b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the retail license;
 - (c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and
 - (d)
 - (i) an application fee of \$300; and
 - (ii) a transfer fee determined in accordance with Section 32B-8a-303.
- (2) If the intended transfer of a retail license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:
 - (a) the name of the transferor;
 - (b) the name and address of the business currently associated with the retail license;
 - (c) instructions for filing a claim with the escrow holder; and
 - (d) the projected date that the commission may consider the transfer application.
- (3)
 - (a)
 - (i) Before the commission may approve the transfer of a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the retail license should be approved.
 - (ii) The department shall forward the information and recommendations described in this Subsection (3)(a) to the commission to aid in the commission's determination.
 - (b) Before approving a transfer, the commission shall:
 - (i) determine that the transferee filed a complete application;
 - (ii) determine that the transferee is eligible to hold the type of retail license that is to be transferred at the premises to which the retail license would be transferred;
 - (iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);
 - (iv) determine that the transferee is not disqualified under Section 32B-1-304;
 - (v) consider the locality within which the proposed licensed premises is located, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
 - (vi) consider the transferee's ability to manage and operate the retail license to be transferred, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
 - (vii) consider the nature or type of retail licensee operation of the transferee, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
 - (viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and
 - (ix) consider any other factor the commission considers necessary.
- (4)
 - (a) Except as provided in Subsection (4)(b), the commission may not approve the transfer of a retail license to premises that do not meet the proximity requirements of Section 32B-1-202.
 - (b) If after a transfer of a retail license the transferee operates the same type of retail license at the same location as did the transferor, the commission may waive or vary the proximity

requirements of Subsection 32B-1-202(2) in considering whether to approve the transfer under the same circumstances that the commission may waive or vary the proximity requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a retail license.

Amended by Chapter 82, 2016 General Session